

REMARKS

Claims 1 through 5 and 7 through 17 are pending in the application. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

FINALITY OF THE ACTION

Applicant notes that the Examiner entered a new ground of rejection but made the above-referenced action final. Specifically, the Examiner stated that "Applicant's amendment necessitated the new ground of rejection presented in this Office Action".

Applicant notes that the aforementioned amendment consisted of amending Claim 1 to incorporate the limitations of Claim 6 therein. Moreover, Applicant notes that the Office Action mailed June 3, 2005 included a rejection under 35 U.S.C. §102 that included both Claims 1 and 6.

In view of the above, Applicant submits that the finality of the present action is premature. In this regard, Applicant notes that §706.07(a) of the M.P.E.P. provides that

[a] second or any subsequent action on the merits in any application or patent involved in reexamination proceedings should not be made final if it includes a rejection, on prior art not of record, of any claim amended to include limitations which should reasonably have been expected to be claimed. See MPEP §904 et seq. For example, one would reasonably expect that a rejection under 35 U.S.C. 112 for the reason of incompleteness would be replied to by an amendment supplying the omitted element.

Applicant notes that the aforementioned amendment did not add any new limitations but rather incorporated the limitations of originally filed Claim 6 into Claim 1. Applicant further notes that the Examiner has not stated that the aforementioned amendment to Claim 1 could not have been reasonably expected. Accordingly, Applicant respectfully requests that the finality of the action be reconsidered and withdrawn.

REJECTION UNDER 35 U.S.C. § 102

Claims 1, 3 through 5, 7, 14, 16 and 17 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Ito et al. (U.S. Pat. No. 6,244,015). This rejection is respectfully traversed.

Applicant notes that Claim 1 includes a heads-up display for displaying a set of data transmitted thereto by the controller therein. Applicant further notes that Ito does not teach or suggest a heads-up display. In this regard, the Examiner has referred to column 4, lines 52 through 54 and column 13, lines 16 through 20. Applicant notes, however, that column 4, lines 52 through 54 of Ito describe a portable monitor TV and that column 13, lines 26 through 20 (as well as column 8, lines 23 through 27) describe the portable monitor TV as being coupled to the non-dominant arm of the worker. As such, the Ito reference does not teach or suggest a heads-up display.

In view of the above-remarks, Applicant respectfully submits that Ito does not teach or suggest each and every limitation of Claim 1 and as such, Applicant respectfully submits that Ito does not present a *prima facie* case of anticipation. Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of Claim 1 under 35 U.S.C. §102(b).

Applicant notes, too, that Claims 3 through 5, 7, 14, 16 and 17 depend from Claim 1 and thus should be in condition for allowance for the reasons set forth for Claim 1, above.

REJECTION UNDER 35 U.S.C. § 103

Claims 8 and 9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ito (U.S. Pat. No. 6,244,015). This rejection is respectfully traversed.

Applicant incorporates by reference the above comments concerning the Ito reference. Applicant notes that as Claims 8 and 9 depend from Claim 1, they should be in condition for allowance for the reasons set forth for Claim 1 above.

Claims 10-13, and 15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ito (U.S. Pat. No. 6,244,015) in view of Jacobsen et al. (U.S. Pat. No. 6,198,394). This rejection is respectfully traversed.

Applicant incorporates by reference the above comments concerning the Ito reference. Applicant notes that as Claims 10-13 and 15 depend from Claim 1, they should be in condition for allowance for the reasons set forth for Claim 1 above.

Applicant further notes that the combination of Ito and Jacobsen does not teach or suggest each limitation of Claims 12 and 13. In this regard, the Examiner has stated that Ito does not teach or suggest an alarm device that is coupled to the article and which generates an alarm signal if the individual wearing the article has entered an unauthorized area. The Examiner has cited column 9, lines 29 through 32 and column 11, lines 46 through 50 of Jacobsen as teaching or suggesting the aforementioned alarm device. Applicant notes that column 9, lines 29 through 32 disclose that the Jacobsen device includes a pair of buttons that permit a soldier to choose what information is displayed and to control LCD illumination (i.e., the amount of backlighting that is provided to the LCD display). Applicant also notes that column 11, lines 46

through 50 disclose that the controller of the Jacobsen device may produce an audible or other alarm (for the soldier) but no mention is made of the alarm being triggered as a result of the soldier's entry into an unauthorized area. Accordingly, Applicant submits that Claims 12 and 13 are additionally in condition for allowance because neither Ito nor Jacobsen teaches or suggests an alarm device that is activated upon entry into an unauthorized area.

Claim 2 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Ito (U.S. Pat. No. 6,244,015) in view of Curatolo et al. (U.S. Pat. No. 6,510,380). This rejection is respectfully traversed.

Applicant incorporates by reference the above comments concerning the Ito reference. Applicant notes that as Claim 2 depends from Claim 1, it should be in condition for allowance for the reasons set forth for Claim 1 above.

Applicant additionally notes that GPS reception within the building environment of Ito is typically very poor or worse. As such, Applicant submits that there is no suggestion in the Ito and Curatolo references themselves or in the art generally to incorporate the GPS receivers of Curatolo with the Ito device. Accordingly, Applicant submits that the Office has not presented a *prima facie* case of obviousness and respectfully requests reconsideration and withdrawal of the rejection of Claim 2 under 35 U.S.C. §103(a).

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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